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15 OCT 1976

DCI/IC-76-1429

Charters & Guidelines

SSCI
77-0052/1

MEMORANDUM FOR: Director of Central Intelligence

FROM : John N. McMahon
Associate Deputy to the DCI for the
Intelligence Community

SUBJECT : Briefing for SSCI on "Operations of the
Intelligence Community Under E.O. 11905"

1. Attached for your review is a proposed presentation, subject as above, prepared for briefing Senator Huddleston's Subcommittee on Charters of the Senate Select Committee on Intelligence.

2. This briefing was proposed by George Cary during a conference which he, [redacted] and Jack Marsh, Counsellor to the President, had on 1 September with Senators Inouye and Huddleston concerning the possible need for legislative charters for various elements of the Intelligence Community.

3. Mr. Cary suggested, and the senators agreed, that before the Charters Subcommittee considered specific legislative proposals, it be briefed on operations of the Community under existing guidelines.

4. Most of the material is unclassified, but a Secret classification is applied primarily because of the material included in the discussion of application of restrictions on intelligence activities.

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5. The initial draft of the presentation was reviewed by OLC, OGC and the ICS offices, but the attached paper has not been formally coordinated. As a presentation of your views, we saw no need for Community coordination.

6. No contact has been made with the Senate Select Committee concerning this presentation since the original offer made by Mr. Cary.

7. It is recommended you review the presentation, and if it meets your approval, Mr. Cary will be requested to schedule a meeting for its presentation.

/s/ JOHN N. McMAHON

John N. McMahon

Attachment:
as stated

Distribution:

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SA-D/DCI/IC/ [REDACTED]
(13 October 1976)

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OPERATIONS OF THE INTELLIGENCE COMMUNITY UNDER EXECUTIVE ORDER 11905
(Proposed as a DCI presentation to the Senate Select
Committee on Intelligence)

INTRODUCTION

My comments today on operations of the Intelligence Community under Executive Order 11905 are provided as a follow-on to the discussions which Senator Inouye and Senator Huddleston had on 1 September with John O. Marsh, Counsellor to the President; my Deputy for the Intelligence Community, [redacted] and Mr. George Cary.

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The briefing will deal with:

- The functioning of the management and oversight structure which the Executive Order created;
- The DCI's follow-on program, and
- The manner in which restrictions set forth in E.O. 11905 have affected the operations of intelligence organizations.

NATIONAL SECURITY COUNCIL DIRECTION

The Executive Order charged the National Security Council with providing guidance and direction to the development and formulation of national intelligence activities.

In carrying out this responsibility, the NSC will conduct semi-annual reviews, geared to the new fiscal year to help ensure the maximum impact on program planning, budget decisions and management policies.

The first review will be conducted this fall.

Matters to be reviewed include:

- Intelligence policies
- The needs of users of intelligence
- The timeliness and quality of intelligence products, and
- The continued appropriateness of special activities in support of national foreign policy objectives.

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Three separate inputs are being prepared.

The first is a written report from the Committee on Foreign Intelligence. This report will:

- Summarize CFI activities since its creation in February, and
- Identify the major program and budget issues thus far encountered and those anticipated within the next six months.

The second report will be provided by the Operations Advisory Group.

The third element, being prepared by my Intelligence Community Staff in consultation with the NSC Staff will assess:

- Requirements of the major users of intelligence products, and
- The timeliness and quality of intelligence reporting.

An ad hoc group representing major organizations of the Intelligence Community has been working on this report for the past several months.

- Over one hundred important consumers of intelligence have been interviewed;
- Based on these interviews and ongoing analyses of intelligence products by the IC Staff, an overall assessment is being prepared.

I am in no position to prejudge what will result from this initial NSC review of intelligence activities, but we are anticipating guidance which will be of direct use in our efforts to improve our responsiveness to user needs.

OPERATIONS ADVISORY GROUP

The need for better control of sensitive intelligence activities was stressed in the recent investigations, and the newly established OPERATIONS ADVISORY GROUP is intended to accomplish this.

As you are aware, the OAG includes as its members the

- Assistant to the President for National Security Affairs;
- Secretary of State;
- Secretary of Defense;

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- Chairman of the Joint Chiefs of Staff, and
- The Director of Central Intelligence
- with the Attorney General and Director of OMB as observers

The Operations Advisory Group has four functions:

- To consider and develop a policy recommendation for the President prior to his decision on each special activity in support of national foreign policy objectives;
- To conduct periodic reviews of programs previously considered by the Operations Group;
- To give approval for specific sensitive intelligence collection operations as designated by the Operations Group, and
- To conduct periodic reviews of ongoing sensitive intelligence collection operations.

The OAG is the successor to the National Security Council 40 Committee, and was created to review proposed covert actions and sensitive reconnaissance activities.

As you are aware from my actions in keeping your committee advised as to special activities within the province of the OAG, the Operations Group is performing its assigned functions.

You also are aware that we are engaged in covert actions only to a very limited degree.

- The situation is a far cry from the 1950s when more than half of the CIA budget was being devoted to covert actions and related operations.
- In recent years this figure has dropped to less than 5 percent of the Agency budget and it is even less today.

I am convinced, however, it is important that our Government maintain a capability to conduct covert actions when the international situation calls for such.

In the Operations Advisory Group I consider we have an effective mechanism for review and recommendations concerning such activities.

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INTELLIGENCE OVERSIGHT BOARD

In the interest of assuring that intelligence activities are conducted within the law and with full regard to the Constitutional rights of American citizens, the President created an INTELLIGENCE OVERSIGHT BOARD composed of three prominent private citizens.

The members are:

- Ambassador Robert D. Murphy, who had a distinguished State Department career
- Mr. Leo Cherne, an economist, who also is Chairman of the President's Foreign Intelligence Advisory Board, and
- Mr. Stephen Ailes, a lawyer and former Secretary of the Army

Executive Order 11905 gives this Board responsibility to:

- Receive and consider reports by agency heads, Inspector General and General Counsels of the Intelligence Community organizations concerning activities that raise questions of legality or propriety;
- Review periodically the practices and procedures which the IGs and General Counsels use to discover and report on activities that might raise questions of legality or propriety;
- Review with each member of the Intelligence Community the internal guidelines which have been issued and ensure their adequacy;
- Report at least quarterly to the President and to the Attorney General on the Board's findings;
- Report in a timely manner to the President and to the Attorney General any activities that raise serious questions about legality, and
- Report to the President any activities that raise serious questions about propriety.

I personally contacted all of the department and agency heads concerning the adequacy of their inspector general capabilities to respond to the Oversight Board requirements, and was in every case assured that such a capability existed.

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On April 19, by memorandum to all CIA employees, I called upon them to cooperate fully with the Intelligence Oversight Board.

Director of Central Intelligence Directives and CIA Headquarters Regulations were updated to reflect the restrictions on intelligence activities set forth in Executive Order 11905.

The organizations of the Intelligence Community submitted their first quarterly reports to the Oversight Board between 15 June and 15 July according to a schedule set by the Board.

Reports to the IOB by intelligence elements other than CIA are not made available to me, although we have been informally advised of some activities reported by other organizations.

The content of these reports and any follow-on actions are matters between the Oversight Board and the reporting organization, plus--if serious illegalities are involved--the President and the Attorney General.

At the very minimum the Board is focusing our attention on the requirement that we must continuously pay heed to the legality and propriety of our intelligence activities.

COMMITTEE ON FOREIGN INTELLIGENCE

Of the new organizations established by E.O. 11905, the one to which I have devoted the most personal time is the COMMITTEE ON FOREIGN INTELLIGENCE.

--I chair this committee, and its other members are Deputy Secretary of Defense Robert Ellsworth, and William Hyland, who is Deputy Assistant to the President for National Security Affairs.

The CFI has a number of key functions relating to the management of our foreign intelligence effort.

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It is charged to:

- Control budget preparation and resource allocation for the National Foreign Intelligence Program;
- Designate the intelligence activities and organizations which are to be included in this Program;
- Review and amend as appropriate the National Foreign Intelligence Program budget before it is submitted to OMB;
- Adopt rules governing the reprogramming of funds within the NFIP budget;
- Establish policy priorities for the collection and production of national intelligence;
- Establish policy for the management of the National Foreign Intelligence Program;
- Provide guidance on the relationship between national and tactical intelligence, and
- Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the National Security Council.

This is a large order, I can assure you, but the CFI has proved to be an active organization.

- The Committee has met 16 times, and the workload it has undertaken has required the commitment of a sizeable part of my Intelligence Community Staff.
- The CFI also has established that the Intelligence Research and Development Council serve as a permanent subcommittee to the CFI.
- Malcolm Currie, Director of Defense Research and Engineering is chairman of the IR&D Council.

Most of the CFI's attention has been devoted thus far to its responsibilities for budget preparation and resource allocation for the FY 1978 budget.

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This has not been without some difficulty.

- Differing interpretations within the Community of CFI responsibilities under E.O. 11905, in contrast to statutes and regulations which govern, for example, the Defense Department budget authority, have raised questions regarding the extent of DCI and CFI authority. Since 80% of NFIP costs reside in Defense-managed programs, differences within the CFI were unavoidable.
- Nonetheless, as Chairman, I have held to the view that, with strong staff support provided by my Deputy for the Intelligence Community, the CFI can and will:
 - play a decisive role in the development, review, and approval of the NFIP and its budget;
 - meet the expectations of the President for better management of intelligence resources and activities; and
 - at the same time, accommodate to existing authorities governing resource and budget control of Departmental Secretaries who are participants in the national intelligence program.
- To do less, would render to the CFI little more than a "pro forma" role in intelligence resource management-- a situation I consider unacceptable to both the spirit and intention of E.O. 11905.
- In our effort to make things work well, we have, for example, devised and established a CFI programming and budgeting cycle which preserves the integrity of the Defense Department programming and budgeting system.

During six meetings in July, the CFI met with senior managers of the NFIP to review their individual program recommendations for FY 78.

- In past years, I might note, total NFIP review was conducted over a six-to-eight-month period.
- Thirty-three program issues were identified for CFI deliberations, and each was decided upon by 20 July for preparation of FY 78 budget submissions.
- This month, the CFI will conduct its review of the budget proposals of the individual program managers looking toward submission of the NFIP budget to OMB in November.

The CFI also played a central role in appealing the results of final action by the House and Senate Appropriations Committees for the FY 77 intelligence budget.

- This was the first instance ever of a unified Intelligence Community response.
- Senator McClellan noted the precedent with approval.

During its July review of intelligence programs, the CFI defined a range of additional issues to be studied in detail before Committee decisions were made for FY 78 and the near-term future. Some of the CFI directed studies are now complete; the remainder are in process. The conclusions and recommendations of these studies will bear significantly on CFI final budget decisions and the future of the NFIP as it relates to:

- the impact of a fast-changing international environment and an increasingly complex set of challenges to the United States;
- increased sophistication of technological development by the U.S. and its adversaries; and
- continuing pressures of economic inflation.

While I am not entirely satisfied that the CFI has, as yet, gained full command and control of its responsibilities, progress is being made:

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- the Committee has used well these past several months to iron-out differences, develop and promulgate new directives for resource management throughout the Community, and to test new procedures;
- substantive and procedural issues have been identified and progress made toward their solution; and
- the Committee is demonstrating well that a Community-wide comprehensive budget review process can be made to work.

I am optimistic that the CFI will continue to gain stature and momentum in providing effective guidance to resource managers of the Community and produce meaningful results for the President and the Congress.

ACTIVITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Next, I would like to say a few words about my activities under E.O. 11905 in addition to those involved in:

- Chairing the Committee on Foreign Intelligence
- Serving on the Operations Advisory Group

ADVISOR TO THE PRESIDENT

Lest there be any ambiguity as to the relation between the President and the Director of Central Intelligence, Executive Order 11905 clearly states that the DCI is directly responsible both to the President and to the NSC, and that the DCI shall "act as the President's primary advisor on foreign intelligence."

I meet alone with the President at least once a week, and I think it is important that any DCI have this direct relationship to the President.

- The DCI can thus be assured that intelligence which he considers must be called to the President's attention actually is.
- Within the Intelligence Community itself, knowledge that the DCI has this kind of personal contact with the President strengthens the DCI position as leader of the Community.

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INTELLIGENCE COMMUNITY STAFF

Most of the responsibilities the Executive Order assigned to me involve Community activities, so I have paid particular attention to strengthening and restructuring my Intelligence Community Staff.

--My Deputy for the Intelligence Community is, as you are aware, a military officer on active duty, and his grade level has been raised from three to four-star rank.

--I am seeking legislation authorizing two Deputy DCIs, since the National Security Act of 1947 provides for only one, who is my deputy for day-to-day management of the CIA.



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--The restructured Intelligence Community Staff has three major offices.

--An Office of Program and Budget Development that provides direct support to the CFI in execution of its responsibility to control budget preparation and resource allocation in the Community.

--An Office of Policy and Planning which prepares Community planning guidance and policy documents and coordinates preparation of my Annual Report, and

--An Office of Performance, Evaluation and Improvement. This is my mechanism for assessing the effectiveness with which the Community is functioning.

--As a means of emphasizing separateness of the Community Staff from the CIA, I am moving the staff to a location which is only a half block from the Executive Office Building in downtown Washington as soon as the building is refurbished.

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Overall, I consider a strong and impartial Intelligence Community Staff essential if I am to execute my Community responsibilities.

PRODUCTION OF NATIONAL INTELLIGENCE

Among the most important charges to the DCI in Executive Order 11905 are that he:

- Act as the President's primary adviser on foreign intelligence.
- Provide the President and other officials in the Executive Branch with foreign intelligence, including National Intelligence Estimates.
- Develop national intelligence requirements and priorities, and
- Supervise production and dissemination of national intelligence.

The basic purpose of our entire intelligence effort is to provide timely, accurate and responsive intelligence to those who need it--including the Congress.

Accordingly, I have devoted considerable attention to the mechanisms by which we develop the intelligence judgments which I must approve.

My basic advisory instrument is the National Foreign Intelligence Board, which I established this spring as successor to the United States Intelligence Board.

- The most senior officers of each element of the Intelligence Community take an active part in the deliberations of this Board.
- The Board is supported by thirteen DCI committees, several of which are specifically charged with substantive intelligence matters. These include:

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- Weapon and Space Systems Intelligence Committee
- Scientific and Technical Intelligence Committee
- Joint Atomic Energy Intelligence Committee
- Economic Intelligence Committee
- Three other DCI committees are charged with development of guidance for intelligence collection to support the production effort:
 - Committee on Imagery Requirements and Exploitation
 - SIGINT Committee
 - Human Resources Committee

The actual production of national intelligence estimates and other major estimative reports is under the auspices of my National Intelligence Officers.

- There are ten NIOs, one for each of seven major geographic areas of the world, and one each for three key topical programs:
 - Strategic forces
 - Conventional forces
 - Economics and energy
- Within his area of responsibility, each NIO is responsible directly to me for maintaining liaison with the principal users of intelligence and ensuring that their needs are met.
- I charge the NIOs to ensure that:
 - All resources of the Community are tapped in the development of national intelligence products, and
 - All agencies have an opportunity to present their views, and express their dissents if they disagree with the judgments reached.

In an effort to improve the quality of our intelligence analysis and to explore new viewpoints, we are organizing a panel of advisers from outside the Intelligence Community to enable us to tap specialized expertise in other parts of the Government, in academia and in private industry.

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--We also have under way an experimental project in which outside groups of experts relooking at the same evidence as is available to intelligence analysts. Highly controversial topics have been selected, and separate, or--if you will--competing estimates are being developed.

--We are, in effect, testing whether new approaches can improve the quality of our estimates.

In the area of national current intelligence production, which includes our responses in crisis situations and provision of warning of upcoming situations of key interest to our policy-makers, the production elements involved are rather diverse, and operate flexibly.

--The day-to-day coordination of national current intelligence production is handled for me by the Office of Current Intelligence of the CIA, supported by the CIA Operations Center.

--The Community Strategic Warning Staff, located in the Pentagon, is oriented toward specific military warning of attack against the United States or its overseas forces.

--The National Operations and Intelligence Officers Warning Net connects key operations and warning centers by secure telephone to enable immediate responses in crisis situations.

--Use of a National Intelligence Situation Task Force enables rapid development of coordinated reports in a crisis situation.

As you might expect, since I became DCI, I have devoted much of my attention to the intelligence product and to the manner in which it is prepared.

I have been very impressed, I can assure you, with the ability of our analysts and estimators and with their objectivity.

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There are gaps in our information base and, considering the kinds of problems which we must address, there always will be, but we are constantly seeking to improve:

- The manner in which we identify and state requirements for information;
- The application of priorities to our information needs;
- The effectiveness of our collection capabilities; and
- The quality of the analysis which goes into our intelligence products.

The arrangements for collection of information and production of intelligence which now exist under Executive Order 11905 are, in my view, quite satisfactory.

DCI AS SPOKESMAN TO THE CONGRESS

The Executive Order specifically provides that the DCI shall "act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of foreign intelligence products by Congress."

Since becoming the DCI at the end of January, I have personally appeared before various Congressional committees 41 separate times, which I trust testifies to my spokesman role.

I also have put continuing emphasis on our readiness to provide briefings and documents as required by the Congress in execution of its responsibilities.

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DCI RELATIONSHIP TO CIA

Before ending this portion of my remarks, I would like to comment briefly on two matters which I am sure will be part of your charter deliberations.

The first of these is whether the Director of Central Intelligence should be separated from the CIA.

I recognize the criticism has been made in the past that the DCI's position as head of the Intelligence Community is incompatible with his position as the operating head of the CIA.

--The charge is that this forces the DCI to be both an impartial arbitrator and an advocate at the same time.

On the basis of my own experience over the past eight months, I do not consider this criticism is valid.

As you know, Executive Order 11905 provides that, to the extent consistent with my statutory responsibilities, I shall delegate the day-to-day operation of the Central Intelligence Agency to my Deputy Director.

I have done this, and Mr. Knoche is fulfilling that role, thereby giving me added time to devote to my Community responsibilities.

On the other hand, I could not execute the responsibilities assigned me for the production of national intelligence without the base which the CIA provides, particularly in current intelligence, in warning and in periods of crisis.

In my view, it is essential that the Director of Central Intelligence also be the operating head of the Central Intelligence Agency if he is to effectively carry out his assigned responsibilities.

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THE ADEQUACY OF DCI AUTHORITY

A second matter which I expect to be of concern to you in your charter deliberations has to do with the proper role of the Director of Central Intelligence and the definition of his authorities and responsibilities.

I consider that Executive Order 11905 has gone a considerable way toward the solution of these issues.

- The Executive Order makes clear those matters in which the DCI's position and authority are paramount, such as his responsibilities as the intelligence advisor to the President, as intelligence spokesman to the Congress and as the official responsible for the production of national intelligence.

- In my view there is no question as to the current adequacy of the DCI authority for control of the production and dissemination of intelligence of national-level interest.

- The Executive Order also makes it clear, in the area of resource allocation, that U.S. intelligence activities must be reviewed in their totality, but that actual allocation arrangements are a function of the primary role and mission of the assets under consideration.

- This was explicitly covered in the provision of the order that neither the DCI nor the Committee on Foreign Intelligence shall have responsibility for tactical intelligence.

With regard to the allocation, application and central control of Intelligence Community resources, however, the DCI authority is more figurative than fact.

- Although the DCI is the designated leader of the Intelligence Community, his full authority over and responsibility for allocation of CIA resources does not extend to other U.S. foreign intelligence agencies.

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- This poses problems to the DCI's leadership role since, as you might expect, conflicting views can arise within the Intelligence Community as to decisions affecting the resources and programs of individual departments and agencies of the Community.

Executive Order 11905 deals with this problem by assigning budget and resource allocation responsibilities to the Committee on Foreign Intelligence, which the DCI chairs and on which the Defense Department is represented by the Deputy Secretary of Defense.

- Obviously, there is a potential for difference in approach on resource allocation matters between the responsibilities assigned by Executive Order to the Committee on Foreign Intelligence and those assigned by statute to the departmental secretaries.
 - However, the CFI provides an organizational structure in which any issues between the DCI and the Secretary of Defense, for instance, can be resolved.
 - The CFI is a mechanism for discussion and adjustment on matters in which I consider reasonable men can reach agreement.
 - The present budget program cycle provides an opportunity to assess how well the CFI can perform its assigned responsibilities.

Overall, I consider that Executive Order 11905 represented a major step forward in terms of clarifying the role and authorities of the Director of Central Intelligence.

- It gives him an unambiguous position as regards responsibility for the production of national intelligence.
- Through his chairmanship of the Committee on Foreign Intelligence the Order gives the DCI a means of exercising leadership in resource matters without intruding on the established authority of department heads.

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--In the context of Community actions, the DCI is looked to for leadership rather than authority in resource management.

--The Executive Order provides the basis for this.

In my view, the Executive Order proposes a checks-and-balance environment which should prove advantageous in establishing better command, control and development of a national intelligence program over the longer term.

ACTIVITIES OF ORGANIZATIONS OF THE INTELLIGENCE COMMUNITY

As you are aware, Executive Order 11905 briefly sets forth the responsibilities and duties of senior officials of each organization of the Intelligence Community and the responsibilities of the separate organizations.

The reorganization of intelligence elements of the Office of the Secretary of Defense, on which the Committee has been briefed by Mr. Ellsworth and his staff, was a departmental initiative and not something required by the Executive Order.

Since the overall activities of the various organizations of the Community were not changed as a result of the Executive Order, I see no need for further comment.

Instead, I will turn to my final topic, which is the manner in which restrictions set forth in E.O. 11905 have affected operations of intelligence organizations.

IMPACT OF RESTRICTIONS ON INTELLIGENCE ACTIVITIES

About one-fourth of the text of Executive Order 11905 is devoted to Section 5, titled "Restrictions in Intelligence Activities."

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INTELLIGENCE COMMUNITY STAFF

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Charters & Guidelines

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"Briefing for SSCI on Operations
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